EXPLANATORY MEMORANDUM TO THE

THE CROWN COURT (AMENDMENT No. 3) RULES 2004

2004 No. 2991 (L. 18)

1. This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

The above Rules are made in exercise of the powers conferred under section 111 of the Criminal Justice Act 2003 and sections 84(1) and 86 of the Supreme Court Act 1981. The Rules specify the procedure for giving notice or making application to adduce evidence of bad character. The Rules will come into force on 15 December 2004 or on the day that sections 98 to 111 of the Criminal Justice Act 2003 come into force, whichever is later.

3. Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments

None.

4. Legislative Background

Part 11 of the Criminal Justice Act 2003 introduces reforms enabling judges to let juries hear about a defendant's previous convictions and other misconduct, where these are relevant to the case and provided their probative value outweighs their prejudicial effect. The Act sets out the circumstances in which this evidence can be given, in order to clarify this area of the law and encourage the admission of this evidence where it will properly assist the courts. The intended approach is inclusionary, but with safeguards to enable courts to exclude evidence that could have a disproportionate effect on the jury. The Act also provides safeguards for witnesses against attacks on their character, where such attacks cannot be justified either as important explanatory evidence or as having substantial probative value in relation to the matter at issue.

The draft Criminal Justice Act 2003 (Categories of Offences) Order 2004 is currently before Parliament for approval by affirmative resolution. It is made in exercise of the powers conferred under section 102(4)(b) of the Act. However these Rules are not dependent on the implementation of that Order.

5. Extent

This instrument applies to England and Wales.

6. European Convention on Human Rights

Not applicable.

7. Policy objectives

The Rules specify relevant information that must be contained in notices of intention or applications for leave to adduce bad character evidence. They also specify the procedure and for opposing an application to adduce such evidence. The Rules set out times limits within which notice must be given and applications made.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Ros Johnson at the Office of Criminal Justice Reform can answer any queries regarding the instrument. Her contact details are:

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